

REMARKS

Applicants have amended Claims 23, 24, and 28, and have canceled Claims 19 and 51 without disclaimer or prejudice. Applicants reserve the right to prosecute the subject matter in these claims in one or more continuation or divisional applications. Enabling support for the amendments can be found in the application as filed, and therefore no new matter is contained in the amendments. Reconsideration of the present application and allowance of resulting Claims 9-14, 18, 20-28, and 44-47 is respectfully requested in view of the amendments and following remarks.

I. Sequence Identifier Objection

The Office Action stated that a nucleotide sequence on page 66 of the specification has not been identified by SEQ ID NO identifier. Applicants have amended the specification to identify the sequence as SEQ ID NO:13, the sequence identifier for that sequence as previously submitted in the sequence identification listing. Please note that a portion of SEQ ID NO: 13 was underlined in the original sequence, should remain underlined, and that no new matter is made to the sequence by the present amendment. Applicants submit that the amendment overcomes the objection.

II. Objection to the Drawings

The drawings were objected to by the draftsperson. Specifically, objections were made to the size of the numbers, letters and reference characters for Figures 2-5. Applicants respectfully request that the Examiner kindly consider the proposed 11 sheets of replacement figures for Figures 2-5 submitted herewith that incorporate the desired changes and which comply with 37 CFR 1.84.

III. Objections to the Claims

The Office Action objected to Claim 28 as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants have amended Claim 28 to delete part (f), and submit that the amendment overcomes the objection.

IV. Double Patenting Rejection

The Office Action rejects Claims 9-14, 44-47, and 51 under the judicially created doctrine of obviousness-type double-patenting as being unpatentable over Claims 1-23 of U.S. Patent No. 6,326,165. Claim 51 has been canceled and therefore the rejection is moot with respect to that claim. Applicants submit herewith a Terminal Disclaimer and the requisite fee, as the assignees of all applications are the same entity. Applicants respectfully submit that this Terminal Disclaimer obviates the double patenting rejections.

V. Claim Rejections under 35 U.S.C. § 112, first paragraph

Claims 19 and 51 were rejected under 35 U.S.C. §112, first paragraph as failing to comply with the written description requirement. Claims 19 and 51 have been canceled and therefore the rejection is moot with respect to those claims.

VI. Claim Rejections under 35 U.S.C. § 112, second paragraph

The Office Action rejects Claims 23-26 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

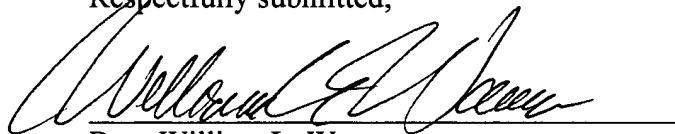
Specifically, the Office Action rejects Claim 23 since Claim 18 does not provide antecedent basis for the term "said receptor". Claim 23 has been amended to recite "said bHLH-PAS polypeptide", which term has antecedent basis in Claim 18.

Claim 24 and dependent claims were rejected since Claim 18 does not provide antecedent basis for the term "said detectably labeled ligand". Claim 24 has been amended to be dependent upon Claim 23, which provides antecedent basis for the term "said detectably labeled ligand."

Applicants submit that these amendments overcome the rejections. For at least the foregoing reasons, Applicants respectfully request reconsideration and removal of the rejections and allowance of Claims 23-26.

For at least the foregoing reasons, Applicants respectfully request reconsideration and removal of the rejections and allowance of Claims 9-14, 18, 20-28, and 44-47. The foregoing is submitted as a full and complete Response to the Office Action mailed May 4, 2004. No additional fees are believed due; however, the Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to Deposit Account No. 19-5029. This Response places all claims in the present application in condition for allowance, and such action is courteously solicited. The Examiner is invited and encouraged to contact the undersigned attorney of record if such contact will facilitate an efficient examination and allowance of the application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William L. Warren', is written over a horizontal line.

By: William L. Warren
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